



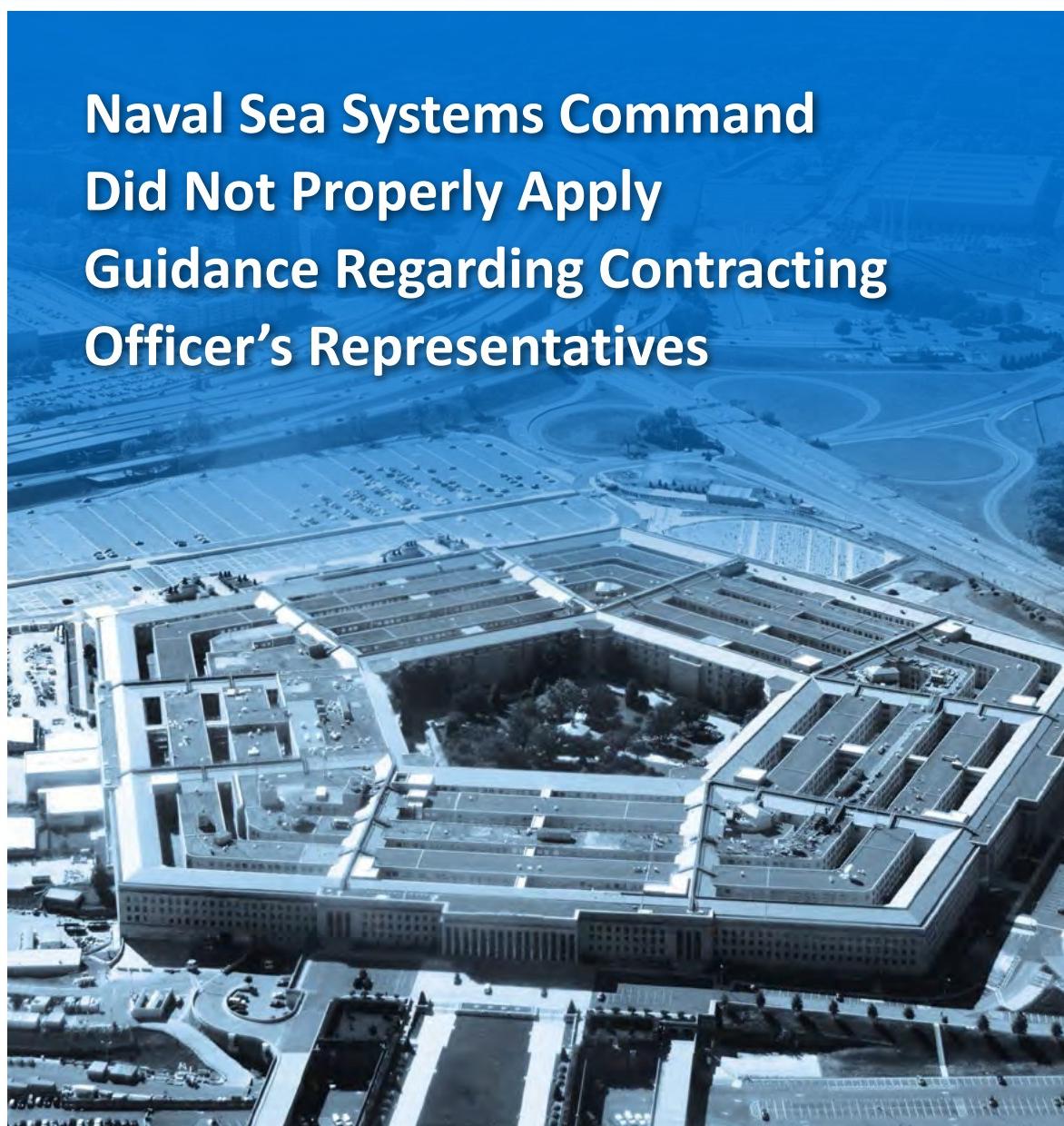
# INSPECTOR GENERAL

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*U.S. Department of Defense*

MARCH 18, 2016

## Naval Sea Systems Command Did Not Properly Apply Guidance Regarding Contracting Officer's Representatives



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# Results in Brief

## *Naval Sea Systems Command Did Not Properly Apply Guidance Regarding Contracting Officer's Representatives*

March 18, 2016

### Objective

We determined whether Naval Sea Systems Command was effectively managing the Pearl Harbor Naval Shipyard contracts for non-nuclear ship repair. Specifically, we determined whether Naval Sea Systems Command was adequately monitoring the contractor's performance.

### Finding

We nonstatistically sampled 2 of 36 scheduled repairs on the multi-ship multi-option ship repair contract we reviewed. Pearl Harbor Naval Shipyard personnel adequately monitored contractor performance. Specifically, personnel performed quality assurance, reviewed work specification details, attended required checkpoints, and completed corrective action requests on the contract reviewed. However, the administrative contracting officer did not retain and execute all contracting officer's representative (COR) responsibilities or formally appoint a qualified and trained COR as required by the Federal Acquisition Regulation and Department of Defense guidance.

This occurred because Naval Sea Systems Command personnel did not properly apply the Federal Acquisition Regulation and Department of Defense guidance, which require a COR.

### ***Finding (cont'd)***

Specifically, Naval Sea Systems Command personnel stated that, because the contract was a supply contract, a COR was not required. However, the contract was also a cost-reimbursement contract and the Federal Acquisition Regulation and Department of Defense guidance require a COR for all cost-reimbursement contracts.

If a COR is not appointed to cost-reimbursement contracts, NAVSEA and PHNSY could be exposed to the following risks.

- The Government may be subject to additional disputes or claims because personnel performing COR responsibilities were doing so without proper authority and training.
- The Government may make improper payments because personnel reviewing invoices did not actively monitor the contractor's work.

### Recommendation

We recommend that the Commander, Naval Sea Systems Command, ensure that CORs are properly appointed and trained on cost-reimbursement ship repair contracts at Pearl Harbor Naval Shipyard.

### Management Comments and Our Response

Comments from the Commander, Naval Sea Systems Command addressed all specifics of the recommendation, and no further comments are required. Please see the Recommendation Table on the back of this page.

### ***Recommendation Table***

<b>Management</b>	<b>Recommendation Requires Comment</b>	<b>No Additional Comments Required</b>
Commander, Naval Sea Systems Command		X



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

March 18, 2016

**MEMORANDUM FOR COMMANDER, NAVAL SEA SYSTEMS COMMAND**

**SUBJECT: Naval Sea Systems Command Did Not Properly Apply Guidance Regarding Contracting Officer's Representatives (Report No. DODIG-2016-063)**

We are providing this report for your information and use. Although personnel at Pearl Harbor Naval Shipyard adequately monitored contractor performance on the contract we reviewed, the contracting officer did not retain and execute all contracting officer's representative responsibilities or formally appoint a qualified and trained contracting officer's representative as required by the Federal Acquisition Regulation and DoD guidance. We conducted this audit in accordance with generally accepted government auditing standards.

We considered management comments on a draft of this report when preparing the final report. Comments from the Commander, Naval Sea Systems Command, addressed all specifics of the recommendation and conformed to the requirements of DoD Instruction 7650.03; therefore, we do not require additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 699-7331 (DSN 664-7331).

Carol N. Gorman  
Assistant Inspector General  
Readiness and Cyber Operations

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# OBJECTIVE

We determined whether Naval Sea Systems Command was effectively managing the Pearl Harbor Naval Shipyard contracts for non-nuclear ship repair. Specifically, we determined whether Naval Sea Systems Command was adequately monitoring the contractor's performance.



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# BACKGROUND

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- Pearl Harbor Naval Shipyard (PHNSY)
  - One of four Naval Sea Systems Command (NAVSEA) operated shipyards.
  - Serves as the Hawaii Regional Maintenance Center for ship conversion, overhaul, repair, alteration, dry docking, maintenance, refurbishment, and test work.
- Ship Repair
  - The time period in which a ship is scheduled for repair is called an “availability.”
  - At PHNSY, there were four types of availabilities: Chief of Naval Operations availability,<sup>1</sup> continuous maintenance availability, window of opportunity, and emergent repair.
- Contracted Ship Repair
  - PHNSY used multi-ship multi-option (MSMO) contracts to perform the majority of its contracted, non-nuclear ship repair (86-percent from October 2010 through August 2015).
  - MSMO contracts at PHNSY are cost-reimbursement contracts.

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<sup>1</sup> A scheduled maintenance availability performed under NAVSEA or Type Commander management.



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# BACKGROUND (CONT'D)

- Contracted Ship Repair (cont'd)
  - NAVSEA awarded MSMO contract # N0002414C4412 in 2014 for PHNSY non-nuclear ship repair. As of August 2015, when our sample was selected, NAVSEA had issued work for 36 availabilities on the contract—obligating \$102.5M.
  - The procuring contracting officer (PCO) at NAVSEA headquarters designated an administrative contracting officer (ACO), located at PHNSY, to perform post-award functions.
  - At PHNSY, the ACO and project management team shared responsibilities for monitoring contractor performance.
- The PHNSY project management team manages the contract and monitors contractor performance, and includes:
  - contract specialists from the contracting office;
  - a project manager from the surface operations department;
  - ship building specialists from the surface operations department; and
  - quality assurance specialists from the quality assurance department.



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## BACKGROUND (CONT'D)

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- Contract specialists process requests for contract changes, which may result in modifications to the contract, and track contract obligations.
- The project manager, ship building specialists, and quality assurance specialists perform detailed monitoring of the contractor's performance.
- Appendix A details how contract management and performance monitoring responsibilities are distributed throughout the life cycle of an availability.



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# CRITERIA

- Federal:
  - Federal Acquisition Regulation (FAR)<sup>2</sup> requires the contracting officer<sup>3</sup> to designate, in writing, a contracting officer's representative (COR) for cost-reimbursement contracts unless the contracting officer retains and executes the COR responsibilities.
  - In addition, the FAR<sup>4</sup> requires contracting officers to ensure the contractor meets quality requirements and to address contractor non-compliance with contract terms and conditions.
- DoD:
  - Defense Federal Acquisition Regulation Supplement and Procedures, Guidance, and Information (DFARS PGI)<sup>5</sup> states that CORs are required for all service contracts and that for cost-reimbursement contracts that are not service contracts, the contracting officer shall either retain or delegate surveillance activities to a COR or the Defense Contract Management Agency.

<sup>2</sup> FAR Part 1, "Federal Acquisition Regulations System," Subpart 1.6, "Career Development, Contracting Authority, and Responsibilities," Section 1.602-2, "Responsibilities," May 29, 2014.

<sup>3</sup> The contracting officers for the contract reviewed are the PCO at NAVSEA headquarters and the ACO at PHNSY.

<sup>4</sup> FAR Part 46, "Quality Assurance," Subpart 46.1, "General," May 29, 2014.

<sup>5</sup> DFARS PGI 201.6, "Career Development, Contracting Authority, and Responsibilities," Subpart 201.602-2, "Responsibilities," revised April 21, 2014.



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# CRITERIA (CONT'D)

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- Department of the Navy:
  - The Joint Fleet Maintenance Manual<sup>6</sup> describes specific procedures for availability oversight. It provides direction on specification reviews, inspection checkpoints for work items, and corrective action reports.
  - NAVSEA guidance<sup>7</sup> states that assigning a COR to assist the contracting officer in managing contract execution and monitoring performance is critical. CORs should review contractor's invoices and supporting documentation to ensure general accuracy and appropriateness of labor and material charges compared to the contractor's performance. COR responsibilities also include:
    - *monitoring technical compliance and progress related to the contract;*
    - *communicating with the contracting officer on performance; and*
    - *maintaining required performance-related documentation.*

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<sup>6</sup> Joint Fleet Maintenance Manual, Volume VII, "Contracted Ship Maintenance," downloaded on May 26, 2015.

<sup>7</sup> NAVSEA Instruction 4200.17E, "Contracting Officer's Representative," May 13, 2013.



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## FINDING. COR RESPONSIBILITIES WERE NOT RETAINED BY THE CONTRACTING OFFICER OR PROPERLY DELEGATED

We nonstatistically sampled 2 of 36 scheduled repairs (availabilities) on the MSMO ship repair contract we reviewed. PHNSY personnel adequately monitored contractor performance. Specifically, personnel performed quality assurance, reviewed work specification details, attended required checkpoints, and completed corrective action requests on the contract reviewed. However, the ACO did not retain and execute all COR responsibilities or formally appoint a qualified and trained COR, as required by the FAR and DoD guidance.

This occurred because NAVSEA personnel did not properly apply the FAR and DoD guidance regarding the COR requirement. Specifically, NAVSEA personnel stated that because the contract was a supply contract, a COR was not required. However, the contract was also a cost-reimbursement contract and the FAR and DoD guidance require a COR for all cost-reimbursement contracts.

If a COR is not appointed to cost-reimbursement contracts, NAVSEA and PHNSY could be exposed to the following risks.

- The Government may be subject to additional disputes and claims because personnel performing COR responsibilities were doing so without proper authority and training.
- The Government may make improper payments because personnel reviewing invoices did not actively monitor the contractor's work.



## PHNSY ADEQUATELY MONITORED CONTRACTOR PERFORMANCE

- The PHNSY project management team adequately monitored contractor performance on a continuous maintenance availability repair on the *USS Chung-Hoon* valued at \$822,722. We selected five work items totaling \$200,611 and determined that personnel:
  - documented and performed quality assurance;
  - reviewed the work specification details;
  - attended the required checkpoints;
  - documented completion of work items; and
  - completed corrective action reports.
- Additionally, appropriate personnel attended and documented a required check point on the Chief of Naval Operations Availability repair on the *USS O’Kane*.
- Seven invoices on the contract included work on the *USS Chung-Hoon*. We selected one invoice that included charges of \$264,774. We reviewed five materials charges, five subcontractor charges, and labor charges for seven employees.
  - Direct material and subcontractor costs were supported by adequate documentation.
  - Direct labor hours were adequately supported by labor reports, clock-in/out detail, self-review certifications, and manual timesheets.
  - The PHNSY Financial Management Office and the Defense Contract Audit Agency reviewed the invoices for mathematical accuracy, availability of funds, and support for a limited number of items (See Appendix B for details of this review).



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## ACO DID NOT RETAIN AND EXECUTE COR RESPONSIBILITIES

- The PCO delegated contract administration functions to the ACO. Those functions included monitoring contractor performance (contract surveillance).
- The DoD COR Handbook<sup>8</sup> and NAVSEA Instruction 4200.17E define 14 COR responsibilities. (See the Table on the next 2 pages)
- Although the ACO retained 5 of the 14 responsibilities, 9 were performed by other PHNSY personnel.
  - Five responsibilities were performed by the ACO or contract specialists. Because the contract specialists were under the ACO's direct chain of command (contracting office), the ACO effectively retained the responsibilities.
  - Nine responsibilities were performed by PHNSY personnel outside the contracting office (Surface Operations, Quality Assurance, and the Financial Management Office). These could not be considered "retained" by the ACO because the personnel performing the responsibilities were organizationally separated from the contracting office, leaving the ACO no control over the quality of information provided. Additionally, the ACO deferred these responsibilities to PHNSY personnel outside of the contracting office without establishing formal contract authority and accountability.

<sup>8</sup> March 22, 2012.



## TABLE. EXECUTION OF COR RESPONSIBILITIES FOR THE CONTRACT

	Duty	ACO/ CS	SBS/ PM	QAS	DCAA/ FMO
1	Ensure that technical guidance given to the contractor addresses or clarifies only the Government's intent.		X		
2	Document deficiencies in performance.		X	X	
3	Inspect and monitor and inform contracting officer on contractor performance of the technical requirements.		X		
4	Ensure that contract performance is timely and within the scope of the work.		X	X	
5	Inform the contracting officer of contractor schedule delays, document reasons for the delay, and coordinate to restore the schedule.		X		
6	Ensure that the contractor does not furnish materials or services in addition to, less than, or different from the contract.		X	X	
7	Ensure that inefficient or wasteful methods are not being used through surveillance of technical performance.		X	X	
8	Provide the contracting officer reports on contractor performance.		X		



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## TABLE. EXECUTION OF COR RESPONSIBILITIES FOR THE CONTRACT (CONT'D)

	Duty	ACO/ CS	SBS/ PM	QAS	DCAA/ FMO
9	Use both quantitative and qualitative methods to evaluate monthly cost and performance data.	X			
10	Track contract costs, depending on type of contract.	X			
11	Report suspected procurement fraud, bribery, conflicts of interest or other improper conduct.	X			
12	Review contractor invoices to ensure that labor hours and materials charged to the contract are accurate.				X
13	Maintain a copy of the contract or order and all modifications, either in electronic or hardcopy, as part of the COR file.	X			
14	Ensure performance assessments are completed for each of their assigned contracts.	X	X		

**Legend**

ACO/CS – Contracting Officer and/or Contract Specialist

DCAA/FMO - Defense Contract Audit Agency and/or Financial Management Office

QAS – Quality Assurance Specialist

SBS/PM – Ship Building Specialist and/or Project Manager

Source: DoD Contracting Officer Representative Handbook and Naval Sea Systems Instruction 4200.17E.



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## PCO AND ACO DID NOT ENSURE APPOINTMENT OF COR

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- The nine responsibilities not retained by the ACO should have been assigned to an appropriately appointed, qualified, and trained COR. However, for the contract reviewed, the ACO did not appoint at least one COR to oversee the responsibilities they did not retain. Assignment of at least one properly trained COR outside the contracting office would establish accountability between the ACO and personnel performing these responsibilities.
- Personnel executing the nine responsibilities were not appointed and therefore, not required to receive annual COR training. For the *USS Chung-Hoon* availability, the project manager, quality assurance specialist, and ship building specialists did not receive annual COR training although they were performing COR responsibilities.



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## NAVSEA DID NOT PROPERLY APPLY COR REQUIREMENTS

- DFARS PGI 201-602-2 (v) (a) states that CORs must be assigned on all service contracts. NAVSEA stated that, because ship repair is considered a supply contract and not a service contract, a COR is not required on the contract reviewed.
- However, the contract was a cost-reimbursement contract; therefore, other sections of the FAR and DoD guidance take precedence. Specifically, the FAR<sup>9</sup> and DFARS PGI<sup>10</sup> state that the contracting officer shall appoint a COR (unless they retain the responsibilities), even for nonservice (supply), cost-reimbursement contracts.

<sup>9</sup> FAR 1.602-2.

<sup>10</sup> DFARS PGI 201-602-2 (v) (b).



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# RISKS OF NOT APPOINTING A COR

If a COR is not appointed to cost-reimbursement contracts, NAVSEA and PHNSY could be exposed to the following risks.

- The Government may be subject to additional disputes and claims because personnel performing COR responsibilities were doing so without proper authority and training.
- The Government may make improper payments because personnel reviewing invoices<sup>11</sup> did not actively monitor the contractor's work and may not be able to effectively determine whether an invoice is appropriate or accurate based on the work performed.

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<sup>11</sup> As noted on page 8 and Appendix B, the PHNSY FMO and Defense Contract Audit Agency review the invoices, but they did not monitor contractor performance. The additional review by a COR would help ensure that payment is made for adequate work performed.



## RECOMMENDATION, MANAGEMENT COMMENTS, AND OUR RESPONSE

### *Recommendation*

We recommend that the Commander, NAVSEA ensure that CORs are properly appointed and trained on cost-reimbursement ship repair contracts at PHNSY.

### *Management Comments*

The Commander, NAVSEA, agreed to appoint and train a COR to cover all COR duties in connection with the contract in accordance with FAR, DFARS, and other agency policy. The Hawaii Regional Maintenance Center intends to nominate the assigned project manager as the COR, and the PHNSY contracting officer will then designate and authorize the individual as the COR. The target completion date for these corrective actions is August 31, 2016.

### *Our Response*

Comments from the Commander addressed all specifics of the recommendation, and no further comments are required.



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# SCOPE & METHODOLOGY

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- We conducted this performance audit from June 2015 through February 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.
- From October 2010 through August 2015, 86-percent (\$509.9M) of contracted, non-nuclear ship repair at PHNSY was performed on two MSMO contracts. We selected the most recent (as of August 2015) of the MSMO contracts (contract # N0002414C4412). The contract obligated \$102.5M, as of August 2015, on 36 availabilities at PHNSY. We nonstatistically selected and reviewed two ship repair availabilities performed under the contract.
  - We reviewed a Continuous Maintenance Availability repair of the *USS Chung-Hoon* (4A2) valued at \$822,722 and selected five work items valued at \$200,611. We also selected one invoice valued at \$264,774 and reviewed five materials charges, five subcontract charges, and labor charges for seven employees.
  - We performed a limited review of one on-going Chief of Naval Operations availability repair of the *USS O’Kane*. We observed a quality assurance checkpoint and reviewed associated testing criteria, assigned personnel, and supporting documentation.



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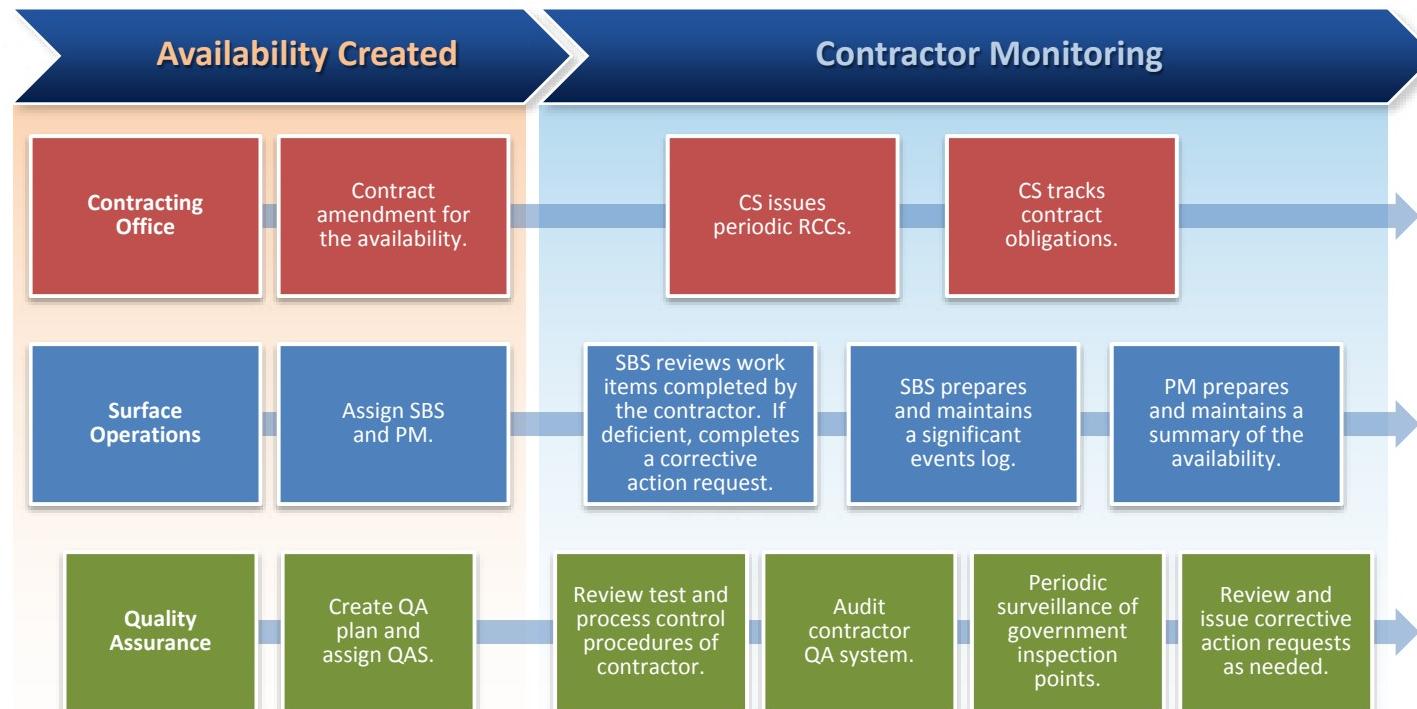
# SCOPE & METHODOLOGY (CONT'D)

- We interviewed contracting officials and personnel involved with monitoring contractor performance at PHNSY. We also interviewed NAVSEA Headquarters, Pacific Fleet, and Defense Contract Audit Agency officials.
- We reviewed key criteria related to monitoring contractor performance, such as sections of the FAR, DFARS, DoD Financial Management Regulation, Joint Fleet Maintenance Manual, DoD COR Handbook, and NAVSEA Instructions.
- We reviewed the contract and documentation related to quality assurance, work specification details, checkpoints, corrective action requests, and an invoice.
- We used computer-processed data in our review and determined that the data was sufficiently reliable to form our finding and conclusions. Specifically, we obtained contractor invoice data from PHNSY and compared this computer-processed data to physical time cards and subcontractor invoices, to verify any questionable data and ensure data reliability.
- Prior Audit Coverage during the last 5 years included:
  - DoDIG Report No. DoDIG-2015-114, "Navy Officials Did Not Consistently Comply With Requirements for Assessing Contractor Performance," May 1, 2015. <http://www.dodig.mil/>
  - DoDIG Report No. D-2011-043, "Improvements Needed on the Fleet and Industrial Supply Center, Sigonella, Ship Maintenance Contracts in Southwest Asia," February 22, 2011. <http://www.dodig.mil/>



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## APPENDIX A FLOWCHART. PERFORMANCE MONITORING PROCESS



**Legend**

CS – Contract Specialist  
PM – Project Manager

QA – Quality Assurance  
QAS – Quality Specialist

RCC – Request for Contract Change  
SBS – Ship Building Specialist

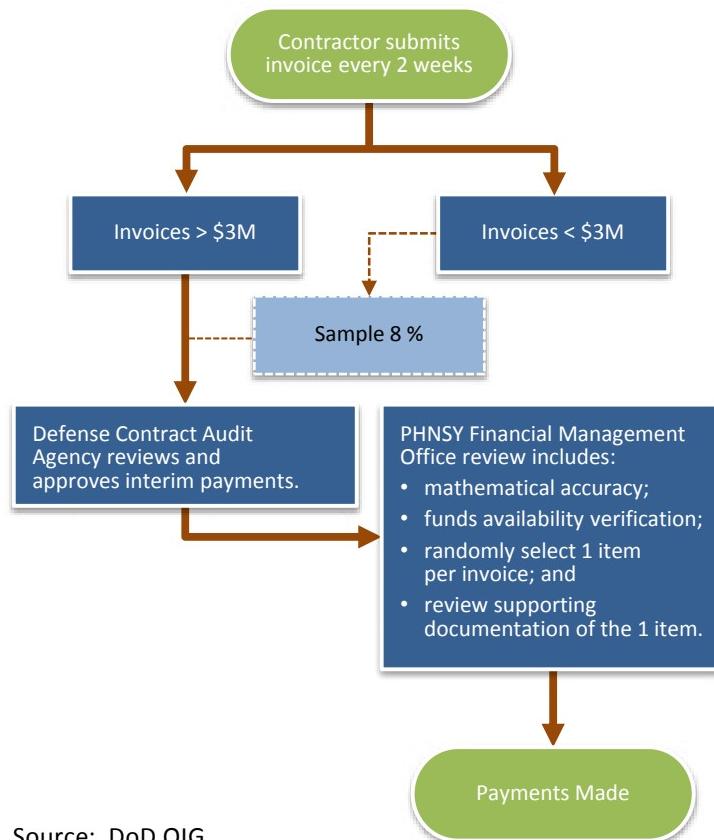
Source: DoD OIG



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## APPENDIX B

### FLOWCHART. INVOICE REVIEW PROCESS



Source: DoD OIG



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#### Process Strengths:

- Defense Contract Audit Agency provides in depth review of large invoices (>\$3M) and sample of smaller invoices.
- PHNSY reviews for supporting documentation and funds availability.

#### Process Weaknesses:

- PHNSY review is not comprehensive for each invoice.
- Some availabilities never get an invoice review prior to payment.
- Defense Contract Audit Agency and PHNSY Financial Management Office personnel are not on the Project Team and have limited knowledge of work billed.

## Management Comments

### Naval Sea Systems Command Comments



DEPARTMENT OF THE NAVY  
NAVAL SEA SYSTEMS COMMAND  
1333 ISAAC HULL AVE SE  
WASHINGTON NAVY YARD DC 20376-0001

In Reply to:  
7500  
Ser 00N/65  
7 Mar 16

From: Commander, Naval Sea Systems Command  
To: Department of Defense Inspector General (Program Director, Readiness and Cyber Operations)  
Subj: DRAFT AUDIT REPORT ON CONTRACTED NON-NUCLEAR SHIP REPAIR AT PEARL HARBOR NAVAL SHIPYARD (PROJECT NO. D2015-D000RA-0194.000)  
Ref: (a) DOD Inspector General Letter 1 June 2015  
Encl: (1) NAVSEA Response to the Subject Report

1. In response to reference (a), enclosure (1) provides the NAVSEA responses to the subject report. Based on our review of the subject report, we concur with the report's recommendation.
2. The point of contact for this audit is [REDACTED] and can be reached at [REDACTED]  
[REDACTED] or via email at [REDACTED]

JOHN R. NEAL  
By direction

Copy to:  
NAVINSGEN (N41)  
SEA 02  
PHNSY & IMF

FOR OFFICIAL USE ONLY

## Naval Sea Systems Command Comments (cont'd)

### NAVSEA RESPONSE

U.S. Department of Defense Inspector General Report

Project No. D2015-D000RA-0194.000

"Management of Pearl Harbor Naval Shipyard contracts  
for non-nuclear ship repair"

Recommendation - Request that the Commander, Naval Sea Systems Command ensure that CORs are properly appointed and trained on cost-reimbursement ship repair contracts at Pearl Harbor Naval Shipyard.

CONCUR. Pearl Harbor Naval Shipyard & Intermediate Maintenance Facility's (PHNSY&IMF's) Contracting Office, working with the Hawaii Regional Maintenance Center (HRMC), provides active and timely Contract Management Oversight (CMO) in connection with contract N00024-14-C-4412, which has been delegated to the Shipyard's Contracting Office as the Contract Administration Office (CAO) by the Procuring Contracting Officer (PCO). PHNSY&IMF will take corrective action by training and appointing a Contracting Officer's Representative (COR) to cover all COR duties in connection with the contract, and in accordance with FAR, DFARS, and other agency policy. In order to implement this, HRMC intends to nominate the assigned Project Manager as the COR for work that is taking place, and in turn, the Contracting Officer will designate and authorize the Project Manager as the COR. Any function that supports the COR's oversight (e.g. documentation of deficiencies in performance, ensuring that contract performance is timely and within the scope of work, etc.) remains within the authority of the COR and is not delegated, however, a Technical Point of Contact (TPOC) will be assigned to assist the COR with these functions.

Target Completion Date: 31 AUG 2016

## Acronyms and Abbreviations

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<b>ACO</b>	Administrative Contracting Officer
<b>COR</b>	Contracting Officer's Representative
<b>CS</b>	Contract Specialist
<b>DCAA</b>	Defense Contract Audit Agency
<b>DFARS</b>	Defense Federal Acquisition Regulation Supplement
<b>FAR</b>	Federal Acquisition Regulation
<b>FMO</b>	Financial Management Office
<b>MSMO</b>	Multi-Ship, Multi-Option
<b>NAVSEA</b>	Naval Sea Systems Command
<b>PCO</b>	Procuring Contracting Officer
<b>PGI</b>	Procedures, Guidance, and Information
<b>PHNSY</b>	Pearl Harbor Naval Shipyard
<b>PM</b>	Project Manager
<b>QA</b>	Quality Assurance
<b>QAS</b>	Quality Assurance Specialist
<b>SBS</b>	Ship Building Specialist

# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

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## **For more information about DoD IG reports or activities, please contact us:**

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